

## **REMARKS/ARGUMENT**

Applicants acknowledge receipt of the Office Action dated June 10, 2005.

### **Status of the Claims**

Claims 3, 6, 8, 11, 14, 15, 17, 36, 37 and 38 are currently amended.

Claims 1, 2, 4, 5, 7, 10, 16, 18-35, 39-262 are canceled (without prejudice to refiling in a divisional/continuation).

Claims 1, 3, 6, 8, 9, 11-15, 17 and 36-38 are rejected.

Claims 206 and 256-262 stand withdrawn.

Claims 1, 3, 6, 8, 9, 11-15, 17, 20, 36-38, 206 and 256-267 are pending.

### **Allowable Claims.**

Applicants gratefully acknowledge the indication in the Office Action of June 10, 2005 that claims 263-267 are allowable.

### **Rejection of Claims Under 35 U.S.C. 102(b).**

***Sugama.*** Claims 1, 2, 14, 15, 17, 36 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,936,384 (Sugama). It is said that Sugama teaches a fluid which comprises hollow microspheres as a lost circulation additive, and that the spheres have a density and size within the scope of the present invention. Applicants have canceled claims 1 and 2. Claims 14, 15, 17, 36 and 37 now depend from allowable claim 263, and therefore the claimed fluid system requires aphrons and are allowable for at least the same reasons as claim 263. Sugama does not teach a fluid system comprising aphrons.

***Miles.*** Claims 1, 3, 8, 11, 14, 15, 17, 36 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,700,050 (Miles). It is said that Miles teaches drilling and packer fluids that comprise hollow microspheres having a size and density within the scope of the present invention. It is also said that the fluid can contain viscosifiers and dilatants such as clay, and that the spheres would inherently have lost circulation properties. Notably, the Miles reference does not teach a fluid system containing aphrons. Claim 1 is canceled. Claims 3, 8, 11, 14, 15, 17, 36 and 37 now depend from allowable claim 263, which requires aphrons, and therefore the claimed fluid system is allowable for at least the same reasons as claim 263.

**Luther et al.** Claims 1, 3, 6, 11, 14, 15, 17, 36 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,235,271 (Luther et al.). It is said that Luther et al. teach a composition that comprises hollow microspheres which may be in either a water-based or oil-based fluid. The Office Action further states that the composition of Luther et al. may comprise a viscosifier such as xanthan, the density of the type of hollow microsphere taught would be within the scope of claim 17. The UV-protection formulation of Luther et al. does not require aphrons, however. As noted above, claims 3, 6, 11, 14, 15, 17, 36 and 37 now depend from allowable claim 263 and therefore distinguish over the art for at least the same reason as claim 263.

**Leuchtenberg.** Claims 1, 3, 36 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2003/0079912 (Leuchtenberg). In the Office Action, it is said that Leuchtenberg teaches a drilling fluid that comprises hollow spheres. It is also said that the intended use of the spheres as a lost circulation material does not distinguish the present claims over the prior art. In reply, Applicants respectfully submit that Leuchtenberg does not teach a fluid system containing aphrons. Claims 3, 36 and 37 now depend directly or indirectly from allowable claim 263, and therefore distinguish over the art for at least the same reason as claim 263.

**Blomberg et al.** Claims 1, 3, 6, 8, 11, 17 and 36-38 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,933,031 (Blomberg et al.). It is said that Blomberg et al. teach a composition that comprises a hollow sphere within the scope of the claimed invention, having a density within the scope of the claimed invention. Fluid loss additives, a dilatant such as starch, and other viscosifiers may be added, according to the Examiner. Blomberg et al. do not teach a composition containing aphrons. Each of claims 3, 6, 8, 9, 11, 17 and 36-38 currently depend from allowable claim 263, which expressly requires aphrons, and therefore distinguish over the art for at least the same reason as claim 263.

**Smith et al.** Claims 1, 3, 6, 8, 9, 11, 13-15, 17, 36 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,530,402 (Smith et al.). In the Office Action, it is said that Smith teaches a fluid for use in a wellbore that comprises hollow microspheres having a density and size within the present invention. It is said that the fluid of Smith et al. may comprise various viscosifiers and dilatants, such as starch and clays. The clays are said to be aggregating particles as in Applicants' claim 6. Smith et al.'s low density spacer fluid does not

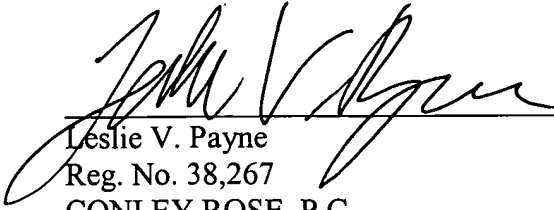
teach aphrons, however. As previously noted, claim 1 is canceled. Claims 3, 6, 8, 9, 11, 13-15, 17, 36 and 37 all depend directly or indirectly from allowable claim 263, require aphrons in the fluid system, and distinguish over the art for at least the same reasons as claim 263.

***Lawson et al.*** Claims 1, 3, 6, 8, 11, 13, 15, 17, 36 and 37 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,152,227 (Lawson et al.) In the Office Action, it is stated that Lawson et al. teach a drilling fluid that comprises microspheres having a density within the scope of the claimed invention. Cellulose fibers are said to be used to prevent lost circulation and to viscosify the fluid, and dilatants and aggregating particles such as clays may also be used. Lawson et al. do not teach a drilling fluid containing aphrons, however. As discussed above, claims 3, 6, 8, 11, 13, 15, 17, 36 and 37 now depend from allowable claim 263, and distinguish over the art for at least the same reasons as claim 263.

### **Conclusion**

In this Response, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art, which have yet to be raised, but which may be raised in the future. Reconsideration of the application and withdrawal of the rejections and objections in light of the foregoing amendments and remarks is respectfully requested. No new matter is introduced by any amendments. This is believed to be a full and complete response to the Office Action of June 10, 2005. If any item in the Office Action has been overlooked or is deemed to be incompletely addressed, Applicants respectfully request the opportunity to further respond. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore. If any fee is due, please appropriately charge such fee to Deposit Account Number 03-2769 of Conley Rose, P.C., Houston, Texas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leslie V. Payne", is written over a horizontal line.

Leslie V. Payne

Reg. No. 38,267

CONLEY ROSE, P.C.

P. O. Box 3267

Houston, Texas 77253-3267

Tel: (713) 238-8000

Fax: (713) 238-8008

ATTORNEY FOR APPLICANTS